

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**SAMANTHA PERINO,
JEANNIE HEATHERINGTON,
and JILL DUSENBERRY,**

Plaintiffs,

vs.

CIV 07-144 WDS/DJS

GLENN SLAUGHTER,

Defendant.

**PLAINTIFF JILL DUSENBERRY'S AMENDED MOTION FOR ATTORNEYS' FEES
AND EXPENSES (ARLON L. STOKER)**

Arlon L. Stoker, hereby moves this Court to award reasonable and necessary attorney's fees, expenses, and New Mexico Gross Receipts tax incurred to date in the above captioned case for the reasons that follow:

1. The instant case was heard by a jury from November 30, 2009 through December 2, 2009. The jury rendered a verdict in favor of Plaintiff Jill Dusenberry in the amount of \$5,000.00.
2. On December 23, 2009, this Court entered a Judgment against Defendant and in favor of Plaintiff Jill Dusenberry, which reflected the jury's verdict.
3. Throughout this litigation, Defendant refused to make any offer of settlement—even that of a “nuisance value” offer. It is true that this case was never about enormous verdicts. Indeed, it is that very fact (that this case was unlikely to result in a huge verdict) that made this case important. If attorneys will only accept civil rights cases that are likely to result in large verdicts then the deterrent effect of potentially facing a civil trial would be dramatically lessened.

4. Defendant was represented by an experienced attorney who has tried many cases. The litigation throughout this case was thorough and aggressive. This litigation necessitated substantial attorneys' fees and expenses.

5. Following trial, the jury rendered a verdict in favor of plaintiff in the amount of five thousand dollars (\$5,000.00). Accordingly, Plaintiff is the prevailing party in this action and therefore entitled, pursuant to 42 U.S.C. § 1988, to their reasonable and necessary attorneys' fees, expenses¹, and applicable gross receipts tax, to date.

6. This motion is timely filed based on the Court's Order extending the time in which to file plaintiff's fee application until January 29, 2010.

7. The time and expenses which form the basis for plaintiff's request were reasonably and necessarily incurred by plaintiff's counsel and thus are compensable pursuant to 42 U.S.C. § 1988.

8. Plaintiff seeks attorney's fees in this case for Arlon L. Stoker in the amount of \$44,036.13 as well costs.

8. Defendant does not concur in this motion and accordingly, pursuant to the local rules of this Court, plaintiff's memorandum brief in support of this motion is filed herewith.

9. In support of this Motion, the following exhibits are attached to Plaintiff's Attorneys' Joint Memorandum in Support of their Respective Motion for Attorneys' Fees and Expenses:

- a. Affidavit of Arlon L. Stoker;
- b. Affidavit of Dennis W. Montoya;

¹ Plaintiff may file separately her Bill of Costs. Plaintiff raises by way of the instant motion and in her Bill of Costs alternative bases for the recovery of certain expenses sought herein which are also allowable as statutory costs under 28 U.S.C. § 1920. Plaintiff expressly states that she does not seek a double recovery of any such overlapping costs and expenses. For a brief discussion regarding the costs allowable under § 1920 and expenses recoverable by a prevailing party under § 1988. See *Jane L. v. Bangerter*, 61 F.3d 1505, 15 17 (10th Cir. 1995); also *Brown v. Gray*, 227 F.3d 1278, 1297-98 (10th Cir. 2000).

c. Attorney time sheet;

WHEREFORE, Plaintiff respectfully request that this Court grant the relief sought herein.

Respectfully submitted,

/s/

By: _____

Joe M. Romero, Jr.
Attorney for Plaintiff
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I certify that a true copy of the foregoing
was delivered to opposing counsel via the
Court's CM/ECF document system on
Monday, February 01, 2010.

/s/

Joe M. Romero, Jr.